

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



# Tu 11.5a

Filed: September 22, 2000  
49<sup>th</sup> Day: Nov. 10, 2000  
Staff: MPD-SF  
Staff Report: Sept. 25, 2000  
Hearing Date: Oct. 10, 2000

**STAFF REPORT: APPEAL****SUBSTANTIAL ISSUE DETERMINATION**

<b>APPEAL NO.:</b>	<b>A-2-SMC-00-035</b>
<b>APPLICANTS:</b>	<b>California Dept. of Transportation (Caltrans)</b>
<b>LOCAL GOVERNMENT:</b>	<b>San Mateo County</b>
<b>PROJECT LOCATION:</b>	Shamrock Ranch, near Pacifica, unincorporated San Mateo County APN 023-741-010
<b>PROJECT DESCRIPTION:</b>	Construction of a 2,000-square-foot pond to provide habitat for threatened red-legged frog
<b>APPELLANTS:</b>	Save Our Bay Foundation (Agent: Oscar Braun)
<b>SUBSTANTIVE FILE DOCUMENTS:</b>	See Appendix A
<b>STAFF RECOMMENDATION:</b>	No Substantial Issue

## TABLE OF CONTENTS

Executive Summary.....	2
Staff Notes .....	3
1.0 Staff Recommendation on Substantial Issue.....	4
2.0 Findings and Declarations.....	4
2.1 Project Description .....	4
2.2 Local Government Action.....	5
2.3 Appeal Process .....	7
2.4 Filing of Appeal.....	8
2.5 Appellant's Contentions.....	8
2.6 Substantial Issue Analysis .....	9

## APPENDICES

Appendix A: Substantive File Documents

Appendix B: Referenced Policies of the San Mateo County Local Coastal Program

## LIST OF EXHIBITS

1. Regional Location Map
2. Project Site Location
3. Site Plan
4. Site Plan (blow-up)
5. Layout/Grading Plan
6. Concrete Junction Box
7. Appeal from Coastal Permit Decision of Local Government
8. San Mateo County's Conditions of Approval
9. Project in relation to existing ponds and proposed tunnel bridges (north approach)
10. Additional correspondence from Save Our Bay Foundation dated September 25, 2000

## EXECUTIVE SUMMARY

The staff recommends that the Commission, after a public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed because the appellant has not raised any substantial issue with respect to the consistency of the approved project with the certified Local Coastal Program (LCP).

The approved development is the construction of a 2,000-square-foot pond to provide habitat for the listed (under the federal Endangered Species Act) as threatened red-legged frog. The proposed pond is located immediately downslope of an existing agricultural

water storage pond (that currently contains red-legged frogs), on the western portion of Shamrock Ranch. The applicant designed the pond in collaboration with the U.S. Fish and Wildlife Service. The project is intended as a habitat impact avoidance measure to provide temporary replacement habitat for red legged frogs while Caltrans conducts further engineering feasibility studies for the Devil's Slide tunnel (see CC-94-00<sup>1</sup>). As currently routed, the northern approach roads that would connect existing Highway 1 to the proposed tunnel would cross Shamrock Ranch near the existing agricultural ponds (see Exhibit 9). The purpose of the proposed pond is two-fold: First, Caltrans, as part of its ongoing environmental analysis for the tunnel, intends to perform further engineering feasibility studies for bridging Shamrock Ranch Valley. Because the performance of these studies has the potential to impair the habitat value of the existing pond(s), there is a need for temporary replacement habitat for the frogs. The purpose of the proposed pond is to fulfill this need. Second, if the tunnel is ultimately approved, the proposed pond is intended to serve as: (a) temporary replacement habitat during the construction phase of the project; and (b) in the long-term, as an enhancement project to provide additional permanent habitat for the frogs.

The appellant contends that the approval of the pond at this time is premature and linked to the tunnel project, which has not yet been approved or had its environmental documents finalized. The appellant further contends that the County's approval is inconsistent with the decision of the Court of Appeal in the case of *Bolsa Chica Land Trust, et al. v. Superior Court* (1999) 71 Cal.App.4<sup>th</sup> 493, which the appellant maintains does not allow destruction of environmentally sensitive habitat areas.

However, the appellant does not specifically allege an inconsistency of the project with any LCP policy, and the appellant's contentions regarding the timing or relationship of the project with either the tunnel or the Bolsa Chica decision are not valid grounds for appeal and do not bring into question the consistency of the project as approved by the County with the certified LCP.

A motion to adopt the Staff Recommendation of No Substantial Issue is contained in Section 1.0.

## **STAFF NOTES**

Section 30625(b) of the Coastal Act (Public Resources Code (PRC), Division 20) requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless the Commission determines that there is no substantial issue, the Commission will continue

---

<sup>1</sup> Caltrans' Consistency Certification for the Devil's Slide Tunnel (No. CC-94-00), tentatively scheduled for the same Commission meeting as the subject appeal.

with a full public hearing on the merits of the project at the same or a subsequent hearing. If the Commission were to conduct a de novo hearing on the appeal, the applicable test that the Commission would employ is whether the development is in conformity with the certified LCP. (PRC § 30604(b).)

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. (California Code of Regulations (CCR), Title 14, § 13117.)

## **1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

Pursuant to Sections 30603(b) and 30625(b)(2) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

### **Motion**

*I move that the Commission determine that Appeal No. A-2-SMC-00-035 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

### **Staff Recommendation of No Substantial Issue**

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

### **Resolution to Find No Substantial Issue**

The Commission finds that Appeal No. A-2-SMC-00-035 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program (LCP).

## **2.0 FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **2.1 Project Description**

The project approved by the County is located immediately downslope of an existing agricultural water storage (that currently contains red-legged frogs), on the western portion of Shamrock Ranch, south of Pacifica in the unincorporated area of San Mateo

County (Exhibits 1-2). The project consists of the construction of a shallow, approximately 35 ft. by 60 ft. (2,000-square-foot), oval shaped, 2 ft. deep pond (Exhibits 3-5) to provide habitat for the threatened red-legged frog. The applicant, Caltrans, designed the pond in collaboration with the U.S. Fish and Wildlife Service. Caltrans proposes to use small power equipment and hand tools to construct the pond. The project includes a concrete junction box to supply water from the upslope existing pond to the new pond (Exhibit 6). The project also includes planting native vegetation in and around the pond, to enable appropriate vegetation to be established in order to provide suitable red-legged frog habitat. Once the vegetation is established, hopefully next Spring according to Caltrans, Caltrans intends to trap red-legged frogs from the two existing ponds on the Ranch to be released into the new pond.

Caltrans and the Service determined that the new pond would be an appropriate habitat impact avoidance measure to protect frogs during construction activities, both during the currently-ongoing engineering feasibility studies for bridging Shamrock Ranch Valley (as part of Caltrans' ongoing environmental analysis for the tunnel), and, if the tunnel is ultimately approved, during the construction phase of the tunnel and northern approach roads. Also, if the tunnel is approved, the proposed pond would serve as an enhancement project to provide additional permanent habitat for the frogs.

Again, assuming it receives all the necessary approvals for the Devil's Slide Tunnel, Caltrans would restore and enhance the two existing ponds, including vegetation improvements and predator deterrence, and ultimately there would be three ponds available for habitat for red-legged frogs (whereas now there are two). In addition, a ditch would be dug between the new pond and the existing upslope (to the south) pond, which would provide an easy migration path for the frogs between the two ponds.

The property is zoned in the County's LUP as Planned Agricultural Development (PAD). Existing use on this portion of the property is an open horse pasture, which supports primarily disturbed (intensively grazed) and non-native vegetation. To the east of the proposed pond is a manmade irrigation ditch, within which riparian vegetation has developed.

## **2.2 Local Government Action and Findings**

On August 23, 2000, the San Mateo County Planning Commission approved with conditions the application of the California Department of Transportation (Caltrans) for a coastal development permit (CDP) PLN 2000—00536 for construction of a 2,000-square-foot pond to provide habitat for threatened red-legged frogs (as described above).

The County approved the project with conditions (Exhibit 8), including:

1. Submittal of erosion control plans for County review, including stabilizing all disturbed areas and maintaining erosion controls, covering stockpiled material during the rainy season, and addressing vehicle maintenance and fueling concerns.

2. Minimizing noise impacts and limiting construction to weekday and daytime hours.
3. Minimizing use of power equipment within the riparian corridor.
4. Submittal of revegetation plans for County review.
5. Diversion of water within the drainage ditch around the construction area to minimize sedimentation.
6. Monitoring and reporting to the County until the U.S. Fish and Wildlife Service concludes the project is successful.

On August 29, 2000, the Save Our Bay Foundation filed an appeal of the Planning Commission's decision to the Board of Supervisors. On September 12, 2000, the Board of Supervisors denied the appeal and upheld the decision of the Planning Commission to approve the coastal development permit with conditions. The County's appeal summary noted:

*The appellant ... discusses at great length the Devil's Slide Tunnel and the merits of that project, the pond. However, at no time does the appellant state what his point of appeal is about this project. While the pond does provide a resource for potentially mitigating impacts associated with the construction of the Tunnel, this Coastal Development Permit is not for that project. The pros and cons of the tunnel project are not under consideration at this time. As discussed in the attached report, the pond complies with the County's Local Coastal Program and, therefore, qualifies for a Coastal Development Permit.*

In approving the project with conditions, the County found:

#### Sensitive Habitats Component

Policy 7.5 (Permit Conditions). This policy requires, as part of the development review process, that the applicant demonstrate that there will be no significant impact on sensitive habitats. This is achieved by having the applicant submit a biological report outlining what resources exist at the project location and how the project may impact those resources. The applicant has submitted biological reports for the project site and surrounding area. The biologist found that there was no evidence of wetland or riparian conditions at the immediate project site, however the adjacent drainage ditch had riparian vegetation and hydric soil conditions. Construction of the pond should have no direct impact upon the adjacent habitat provided that power equipment is used judiciously within the pond feature and hand tools only are used for the required work within the riparian corridor. A condition has been added reflecting these requirements.

This policy also requires the restoration of damaged habitat when feasible. There is the possibility that there could be some minor damage to the riparian habitat in and around the drainage ditch adjacent to the pond site. This would be the result of work conducted within this zone to construct the junction box. Any damage to

riparian vegetation shall be mitigated by the applicant via the vegetation plan for the pond. A condition has been added to require this vegetation plan to include any needed repair of the adjacent riparian vegetation due to construction activities.

Policy 7.7 (Definition of Riparian Corridors). The LCP defines riparian corridors by the “limit of riparian vegetation” (i.e., a line determined by the association of plant and animal species normally found near streams, and other bodies of freshwater). A portion of the project will occur within a riparian corridor as defined by this policy. This would be the installation of the concrete junction box to divert a portion of the ditch’s water into the proposed pond. This intrusion into a riparian corridor is allowed under Policy 7.9 (Permitted Uses in Riparian Corridors), which allows fish and wildlife management activities within corridors. The junction box is part of a larger project to create and enhance habitat for the endangered California red-legged frog.

Policy 7.10 (Performance Standards in Riparian Corridors). Permitted development within riparian corridors must minimize removal of vegetation; minimize erosion, sedimentation, and runoff; and maintain natural vegetation buffer areas. A condition will be added requiring the applicant to divert any water within the drainage ditch around the area of construction to avoid entrainment of sediment during the construction phase of the project. Additionally, a condition will be added which requires the applicant to remove or trim only that vegetation which is necessary to construct the pond and junction box.

Policy 7.11 (Establishment of Buffer Zones). This policy requires the establishment of a 50-foot buffer zone outward for perennial streams. This buffer zone is established from the “limit of riparian vegetation.” The proposed location of the pond would be within this required buffer zone. However, fish and wildlife management activities are an allowed use in the buffer zone [Policy 7.12 (Permitted Uses in Buffer Zones)].

## **2.3 Appeal Process**

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified zoning ordinance or zoning district map. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county.

The project is appealable to the California Coastal Commission because the approved development is not the principal permitted use in the property's zoning designation (Planned Agricultural Development (PAD)).

## **2.4 Filing of Appeal**

On September 15, 2000, the Commission received the Notice of Final Local Decision for the County's approval of the proposed development. PRC § 30603(c) establishes a 10 working day period during which aggrieved persons may appeal to the Commission decisions by local governments on applications for permits under the Coastal Act. In accordance with section 13110 of the Commission's regulations, the 10-working-day appeal period ran from September 16, 2000, through September 29, 2000. On September 22, 2000, the appellant (Save Our Bay Foundation) submitted its appeal to the Commission (see Exhibit 7, Appeal From Coastal Permit Decision of Local Government).

Pursuant to Section 30621 of the Coastal Act, the appeal hearing must be set within 49 days from the date an appeal of a locally-issue CDP is filed. The 49<sup>th</sup> day from the date the appeal was filed is November 10, 2000. Accordingly, the staff has scheduled a hearing on the appeal at the Commission's October meeting because the November Commission meeting will fall outside of this 49 day period.

## **2.5 Appellant's Contentions**

The full text of the appellant's initial contentions as submitted to the Commission is presented in Exhibit 7. (The appellant elaborates on these arguments in a subsequent letter (dated September 25, 2000 (Exhibit 10)). The staff has directly quoted excerpts from the initial contentions as follows:

1. Project is inconsistent ... [with] Section 30231 ... [because]: On April 16, 1999, the Court of Appeal of California, Fourth Appellate District, Division One filed their [sic] *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* ruling that stated: "The Coastal Act does not permit destruction of an environmentally sensitive habitat area (ESHA) simply because the destruction is mitigated offsite. At the very least, there must be some showing the destruction is needed to serve some other environmental or economic interest recognized by the act."
2. Project is inconsistent ... [with] Section 30233(a) ... [because]: Caltrans has not provided in the Tunnels alternative record any evidence that the destruction of the ESHA is a prerequisite to creation of the red legged frog or other wetland habitat. In the absence of evidence as to why preservation of the



Environmentally Sensitive Habitat Area at its current location is unworkable, we cannot reasonably conclude that any genuine conflict exists between long-term and short-term goals exists. The 1997 CCC Adopted Findings (page 19, last paragraph) support the conclusion of the Save Our Bay Foundation. “Without having the results of comprehensive wetland surveys available for either the bypass alternative or the tunnel alternative, and without having a final design for a tunnel alternative available, it is impossible to state with certainty exactly how much more wetland fill would be associated with the bypass than with a tunnel alternative.”

3. Project is inconsistent ... [with] Section 30240 ... [because]: In 1999, the State Court of Appeal further ruled: “Section 30240 Under the Coastal Act, Commission is required to protect the coastal zone’s delicately balanced ecosystem. In short, while compromise and balancing in light of existing conditions is appropriate and indeed encouraged under other applicable portions of the Coastal Act, the power to balance resource and compromise (Section 30007.5) cannot be found in section 30240.”

## 2.6 Substantial Issue Analysis

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

### 2.6.1 Appellant’s Contentions Are Not Valid Grounds for Appeal

As discussed below the contentions raised in the appeal do not present potentially valid grounds for appeal in that they do not allege the project’s inconsistency with policies and standards of the LCP.

#### ***Relationship of the Proposed Project to the Devil’s Slide Tunnel and the Bolsa Chica Decision***

**The Commission finds that the appellant’s contentions regarding the status of the Devil’s Slide Tunnel and the applicability of the Bolsa Chica decision do not address the consistency of the approved pond with the certified LCP for San Mateo County, and are therefore not valid grounds for appeal.**

The appellant contends that it is premature for the County to have approved the proposed pond, because such approval presumes that a related project (i.e., the tunnel) will be found consistent with the County’s LCP. The appellant also contends that the County’s decision conflicts with court rulings in the *Bolsa Chica* decision, which the appellant maintains prohibits offsite mitigation of adverse effects on wetlands and environmentally sensitive habitat. The appellant further contends that Caltrans has not provided evidence

that the tunnel is the least environmentally damaging alternative or that a conflict exists between resource protection policies that would allow such conflict to be resolved in favor of approval of the tunnel.

None of these contentions address conformance of the development approved by the County with the policies of the certified LCP. The County properly reviewed the proposed frog pond on its own merits, finding it consistent with the sensitive habitat policies of the LCP. As discussed above, the County's appeal summary noted:

*While the pond does provide a resource for potentially mitigating impacts associated with the construction of the Tunnel, this Coastal Development Permit is not for that project. The pros and cons of the tunnel project are not under consideration at this time. As discussed in the attached report, the pond complies with the County's Local Coastal Program and, therefore, qualifies for a Coastal Development Permit.*

The Commission agrees. Whether or not the pond will ultimately serve as a mitigation measure for the tunnel (or, for that matter, any above-ground bypass or other solution to the Devil's Slide problems) is not relevant to the question of whether a substantial issue exists as to the consistency of the pond with the County's LCP. The approved project and can serve and stand alone as a separate habitat enhancement measure, whether or not the tunnel or another bypass is ultimately authorized. In addition, in order to conduct further engineering feasibility studies for bridging Shamrock Ranch Valley, in support of ongoing NEPA/CEQA analysis for the tunnel, the proposed frog pond is a habitat impact avoidance and protection measure deemed necessary and appropriate by the U.S. Fish and Wildlife Service. In other words, the pond is inherently needed in order to finalize the environmental review process for the tunnel, and, therefore, must *necessarily* pre-date any final environmental review or permit action on the tunnel. Therefore, the Commission finds that the appellant's contentions regarding the status of the Devil's Slide Tunnel and the pond's relationship to that project are not relevant to the issue of the consistency of the pond with the County's LCP, and, therefore, are not legally valid grounds for appeal.

## **2.6.2 Substantial Issue Considerations**

Regardless of whether the appellant has presented valid grounds for an appeal, the project does not raise a substantial issue with respect to the project's consistency with the policies of the certified LUP.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" (Cal. Code Regs., tit. 14, section 13115(b).) In previous determinations of substantial issue, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal development permit decision by filing a petition for a writ of mandate pursuant to PRC § 30802 and Code of Civil Procedure, Section 1094.5.

### **2.6.3 Appellant's Contentions Do Not Raise A Substantial Issue**

As discussed above, the appellant's contentions focus on arguments other than whether the project is consistent with policies and standards of the LCP.

#### ***Consistency of the Proposed Project to the County's LCP***

<p><b>The Commission finds that the project as approved by the County does not raise a substantial issue regarding the consistency of the proposed pond with the LCP for San Mateo County.</b></p>
--

As discussed in the discussion above, the County properly reviewed the proposed frog pond based on the applicable policies of the LCP. Sections 7.3 and 7.5 require proposed development to protect sensitive habitat, through conditions, including requiring submittal of reports prepared by qualified professionals, and also including monitoring programs designed to assure the effectiveness of the protection measures. As discussed in the Project Description of this report, Caltrans is proposing the pond as a habitat impact avoidance measure to provide temporary replacement habitat for red legged frogs. Thus, the extent and scope of development approved by the County is limited to a habitat

creation project. In support of its project, Caltrans not only submitted a report to the County prepared by qualified biologists, but also designed the proposed pond in collaboration with the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service supports the project (pers. comm. Cecelia Brown, 9/21/00), and this support represents independent professional support for the County's findings that the project is consistent with the Sensitive Habitat component of the LCP. The County also imposed conditions requiring monitoring impacts as required under the LCP. Thus, there is a high degree of factual and legal support for the consistency of the project as approved by the County with all applicable policies of the certified LCP.

The junction box component of the project will be located within a riparian corridor. The County determined that under LCP Policy 7.9 (Permitted Uses in Riparian Corridor), this use is an allowable one (because the policy allows fish and wildlife management activities within corridors). The County's finding is supported by the fact that the junction box is part of a larger project to create and enhance habitat for the threatened California red-legged frog.

The County also determined that the project is consistent with LCP Policy 7.10 (Performance Standard in Riparian Corridors), because it imposed conditions requiring the applicant to divert any water within the drainage ditch around the area of construction to avoid entrainment of sediment during the construction phase of the project, and to limit trimming or removal of vegetation to the minimum needed to construct the pond and junction box. The County approval also requires that the applicant mitigate for any incidental unavoidable impacts caused by the allowable use within the riparian corridor, by requiring Caltrans to include in its revegetation plan a specific contingency plan to address any vegetation removal within the riparian corridor.

Finally, the County determined, pursuant to LCP Policies 7.11 and 7.12 (Establishment of Buffer Zones and Permitted Uses in Buffer Zones), that the proposed wildlife management activity is an allowable use in the buffer zone.

The Commission therefore finds that the County's action does not raise a substantial issue with regard to the project's consistency with the LCP.

#### **2.6.4 Conclusion**

The Commission finds that, for all of the reasons stated above, that even if the appellant had raised valid grounds for appeal, the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP.

## **APPENDIX A**

### **Substantive File Documents**

1. San Mateo County 2000 Administrative Record for coastal development permit CDP PLN 2000—00536 (Caltrans), with cover letter dated September 13, 2000.
2. Coastal Commission Staff Recommendation on Consistency Certification CC-94-00 (Caltrans, Devil's Slide Tunnel), dated September 21, 2000.

## **APPENDIX B**

### **Referenced Policies of the San Mateo Local Coastal Program**

#### **7.3 Protection of Sensitive Habitats**

a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.

b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

#### **7.5 Permit Conditions**

a. As part of the development review process, require the applicant to demonstrate that there will be no significant impact on sensitive habitats. When it is determined that significant impacts may occur, require the applicant to provide a report prepared by a qualified professional which provides: (1) mitigation measures which protect resources and comply with the policies of the Shoreline Access, Recreation/Visitor-Serving Facilities and Sensitive Habitats Components, and (2) a program for monitoring and evaluating the effectiveness of mitigation measures. Develop an appropriate program to inspect the adequacy of the applicant's mitigation measures.

b. When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when in the judgment of the Planning Director restoration is partially or wholly feasible.

#### 7.7 Definition of Riparian Corridors

Define riparian corridors by the limit of riparian vegetation (i.e., a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of freshwater: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

#### 7.10 Performance Standards in Riparian Corridors

Require development permitted in corridors to: (1) minimize removal of vegetation, (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas, (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified areas, (4) use only adapted native or non-invasive exotic plant species when replanting, (5) provide sufficient passage for native and anadromous fish as specified by the State Department of Fish and Game, (6) minimize adverse effects of waste water discharges and entrainment, (7) prevent depletion of groundwater supplies and substantial interference with surface and subsurface waterflows, (8) encourage waste water reclamation, (9) maintain natural vegetation buffer areas that protect riparian habitats, and (10) minimize alteration of natural streams.

#### 7.11 Establishment of Buffer Zones

a. On both sides of riparian corridors, from the limit of riparian vegetation extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.

b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams.

c. Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point except for manmade ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

#### 7.12 Permitted Uses in Buffer Zones

Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) residential uses on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) in Planned Agricultural,

Resource Management and Timber Preserve Districts, residential structures or impervious surfaces only if no feasible alternative exists, (4) crop growing and grazing consistent with Policy 7.9, (5) timbering in streamside corridors as defined and controlled by State and County regulations for timber harvesting, and (6) no new residential parcels shall be created whose only building site is in the buffer area.

*G: Land Use/Federal Consistency/Staff Reports/2000/A-2-SMC-00-035*

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



# Tu 11.5 a

## Addendum

**Date:** September 28, 2000

**To:** Commissioners and Interested Persons

**From:** Peter Douglas, Executive Director  
Mark Delaplaine, Federal Consistency Staff

**Subject:** APPEAL NO. A-2-SMC-00-035, Caltrans, Shamrock Ranch

---

On September 28, 2000, the Commission staff received a second appeal of San Mateo County's decision on the above-referenced project. This second appeal is invalid, because this appellant does not have standing to appeal. Section 30801 of the Coastal Act provides:

*Any aggrieved person shall have a right to judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure, within 60 days after the decision or action has become final.*

*For purposes of this section and subdivision (c) of Section 30513 and Section 30625, an "aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the commission, local government, or port governing body in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the commission, local government, or port governing body of the nature of his concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit and, in the case of an approval of a local coastal program, the local government involved.*

This appellant did not appear at or make his views known at the local government level on this project, and thus does not qualify as an "aggrieved person." Nevertheless, his comments are being attached so the Commission can consider them as written correspondence on the matter.

Attachment